

Chapter 11

SENSITIVE LANDS

An ordinance to regulate development in sensitive areas and to preserve Kanab's unique visual character, conserve the public health, safety, and general welfare, and promote environmentally sound design and planning.

CITY OF KANAB

Uniform Zoning Ordinance

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Section 11-1 Purpose

The purpose of this section is to regulate development in sensitive areas in order to preserve the City of Kanab's unique visual character, conserve the public health, safety, and general welfare, and promote environmentally sound design and planning. The mountains and hills constitute a significant natural topographic feature of the community and create a desirable setting, visible to the entire city. In order to insure the preservation of the hillsides, the regulations of this section are established to recognize that development of land in hilly or mountainous areas involves special considerations and unique situations which result from the slope of the land. These special considerations and unique situations include, but are not limited to, increased hazards to development from rock falls, storm water runoff, and geologic hazards. In addition, steeply sloped land presents design limitations to roadways, cuts and fills, and buildings, and difficulties in providing public services.

1. With the enactment of this Chapter 11, the Kanab Municipal Council intends to:

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- (a) Protect life and property from all potentially hazardous conditions particular to hillsides such as rock falls, storm water runoff, and mass movements;
- (b) Preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, such as drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees;
- (c) Encourage innovative site and architectural design and planning in order that the development adapts to the natural terrain and is harmonious with the character of the area;
- (d) Minimize grading and cut and fill operations consistent with the retention of the natural character of the hillside;
- (e) Minimize storm water runoff and erosion problems incurred by the development on and off the site;
- (f) Preserve, where possible, natural streams, ponds and associated riparian vegetation;
- (g) Require the retention of trees and other vegetation which stabilizes steep hillsides, retains moisture, prevents erosion, and enhances the natural scenic beauty and to require additional landscaping where it is necessary;
- (h) Encourage the retention of trees and other vegetation throughout the site instead of just in the periphery area of the development and to require that graded areas be reasonably distributed throughout the project site;
- (i) Encourage minimal grading which relates to the natural contour of the land, which will round off sharp angles at the top and bottom of cut and fill slopes in a natural manner thereby avoiding unreasonable "padding" or "staircase" effects;
- (j) Provide land use densities to promote the best possible development of hillside areas in order to retain significant natural features;
- (k) Encourage road design which follows the natural topography wherever possible in order to minimize cutting and grading; and
- (l) Preserve predominant views from and of the hillside areas in order to retain the sense of identity and imagery that the hills and mountains now impart to the City of Kanab.
- (m) Place the liability and expense of evaluating the condition of potentially unstable land, and determining restrictions which should be placed on its development, upon geologists or engineers employed by the landowner;

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- (n) Implement the Kanab City General Plan by restricting the use of land to those uses which do not present unreasonable risks to persons or property because of geological and natural hazards and/or geotechnical limitations;
- (o) Prevent fraud in land sales relating to the geologic or other condition of real property; and
- (p) Authorize a governmental function of regulation within the Utah Governmental Immunity Act.

Section 11-2 General Provisions

To insure that a proposed development in sensitive land areas reflect the best interests of the City, all grading or other improvement of any land, including, but not limited to, land in approved subdivisions or other development plans, shall conform to the development standards, guidelines, and criteria of this Chapter, the provisions of which are intended to minimize floods, erosion, and other environmental hazards; to protect the natural scenic character of foothill areas not suitable for development, and to insure the efficient expenditure of public funds. The policies to be achieved by this Chapter shall include, but not be limited to, the following:

1. Encourage only minimal grading which relates to the natural contour of the land and which will round off, in a natural manner, sharp angles at the top and ends of cut and fill slopes, and which does not result in a "staircase" or "padding" effect.
2. Require retention and protection of trees and other vegetation which stabilize steep hillsides, retain moisture, prevent erosion, enhance the natural scenic view, and where necessary, require additional landscaping to enhance the scenic and safety qualities of the hillside.
3. Require immediate planting wherever appropriate to maintain necessary cut and fill slopes, to stabilize them with plant roots, to conceal the raw soil from view and to minimize erosion.
4. Preserve natural drainage channels as determined by the City.
5. Encourage retention of natural landmarks and prominent natural features, wildlife habitat, and open space.
6. Preserve and enhance the visual and environmental quality through the use of natural vegetation and prohibition of excessive excavation and terracing.
7. Protect the public from natural hazards of storm water run off and erosion by requiring drainage facilities.
8. Minimize the threat of fire damage by establishing fire protection measures.

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9. Establish land use management that will encourage protection of natural elements while allowing a harmonious and satisfying residential environment.

10. Encourage a regard for the view of the foothills as well as view from the foothills.

11. Minimize public exposure to geological and natural hazards including, but not limited to, snow avalanche, rock slides, rock falls, debris flow, debris floods, flooding, land sliding, surface fault rupturing and/or deformation along primary and secondary fault traces and ground failure associated with soil liquefaction, by identification, mitigation and/or avoidance of such hazards in conjunction with development proposals.

12. Minimize potential property losses related to geotechnical limitations including, but not limited to, expansive or collapsible soils, non-engineered fills and shallow groundwater conditions.

Section 11-3 Definitions.

Buildable Area - That portion of a lot or parcel which is eligible to place a building or structure and complies with the setbacks and other regulations of the zone where the property is located.

Excavation - The mechanical removal of earth material.

Fill - A deposit of earth material by artificial means.

Foothill - A hill at the bottom of a higher mountain or mountain range and forming part of the approaches to it

French Drain - A sump or trench filled with crushed rock or gravel intended to receive storm water discharge.

Geologic Report - A report that shall include maps and a report, as required by Section 11-10.

Geotechnical Engineer - A civil engineer registered in the State of Utah with training and experience in soil engineering.

Grading - Any excavating or filling or combination thereof.

Grading Plans A topographic development plan prepared by a registered civil engineer showing contours for before and after grading which do not exceed one-foot intervals.

Hazardous Conditions - Flood plain area, sensitive land, and land with a high water table which if disturbed is likely to be detrimental to life or property.

Hill - A landform that extends above the surrounding terrain, in a limited area.

Hillside - The slope or side of a hill

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Hillside Area - Any lot or parcel with an average slope greater than ten percent (10%).

Letter Report - A simplified geologic report used in relation to areas of relatively stable soil and rock as required by Section 11-9.

Natural Features - Non-man-made land characteristics, including drainage swales, wetlands, rock outcroppings, streams, and concentrated native stands of large shrubs or trees.

Natural State - That portion of any lot or parcel which cannot be subjected to grading, removal of vegetation or building development.

Open Space - Primary and secondary conservation areas and other land conserved or set aside from development such as but not limited to public or private parks, trails, landscaped buffers, wetlands, meadows, forested areas, pastures, farm fields and other lands forming part of the ecologically connected matrix of natural areas significant due to wildlife habitat, water quality protection and other reasons.

Sensitive Lands - Any land area whose destruction or disturbance could immediately affect the life of the community by either:

1. creating hazardous conditions such as flooding and landslides;
2. destroying important public resources such as water supplies and the water quality of lakes and rivers; or
3. wasting important productive lands and renewable resources.

Site - Any lot or parcel of land.

Slope - An inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In this Ordinance, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A fifty (50) percent slope, for example, refers to a 100-foot rise in elevation over a distance of 200 feet. A fifty (50) percent slope is expressed in engineering terms as a 2:1 slope.

Subsurface Drainage - Any system of pipes, canals, ditches, moats, and the like that intercepts ground water and carries it to Kanab Creek.

Surface Drainage - Water run-off caused as a result of precipitation or irrigation.

Wetlands - Lands that are generally inundated or saturated by surface or ground water at a frequency or duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

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Section 11-4 Actions Prohibited

Notwithstanding any other provision of the Kanab City Code it shall be unlawful to grade, fill, or excavate any land in any manner which presents an unreasonable risk of erosion, flooding, landslide, or any other unsafe condition, and it shall be unlawful to erect any structure which will not be reasonably safe for use as a human habitation because of:

1. a high water table (water close to the surface);
2. surface water;
3. expansive soils;
4. collapsible soils;
5. proximity to a potential landslide area;
6. proximity to a secondary fault;
7. proximity to an alluvial fan;
8. proximity to an active landslide;
9. steep slopes; or
10. any other unsafe condition.

Section 11-5 Presumption

Conditions described on geologic hazard maps and aerial topography maps maintained by the City Zoning Administrator, together with explanatory material appurtenant thereto, shall be presumed to exist.

Section 11-6 Procedure to Develop Real Property

1. It shall be unlawful to grade, fill, or excavate any land or to erect any structure without doing the following:
 - a. Obtaining the acknowledgment of the City Zoning Administrator that any letter report (a letter report is described in Section 11-10, Kanab City Code), or geologic report (a geologic report is described in Section 11-10, Kanab City Code), required by the City Engineer pursuant to this Chapter, has been received and meets the requirements of Section 11-8, Kanab City Code. (The giving of this acknowledgment by the City Zoning Administrator shall not be an approval of or acquiescence to the content or conclusions of the letter report or geologic report. A letter report or geologic report shall be considered part of the public record and may be copied by any person.)
 - b. Except as provided in Section 11-11, Kanab City Code, by grading, filling, or excavating land or erecting a structure only as described in the letter report or geologic report which

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has been acknowledged by the City Zoning Administrator. (A proposal for which a letter report or a geologic report is not required may be implemented as described in the proposal.)

c. By executing and recording the restrictive covenant required by Section 11-15, Kanab City Code. (This Subsection does not apply if no letter report or geologic report is required.)

2. Obtaining a grading permit from the City Zoning Administrator. Submittal of an acceptable erosion control and re-vegetation plan shall be required before the grading permit is approved.

3. In addition to the provisions of this Chapter, all grading, filling, or excavation of land or erection of any structure shall comply with all other applicable provisions of these Ordinances.

4. Those parts of any proposal to construct improvements such as roads, sewer lines, or water lines, or other improvements which are intended to be placed in public ownership shall be subject to the approval of the City Engineer.

5. Those parts of any proposal to develop real property which jeopardizes the public's health, safety, or welfare or significantly interferes with established long term development plans of Kanab City shall be subject to the approval of the City Engineer after consultation with the appropriate City department.

6. No building permits shall be issued until the requirements of this Chapter are met.

Section 11-7 Preliminary Determination by City Engineer.

All proposals to grade, fill, or excavate land or to erect a structure for human habitation (sometimes referred to herein as the "proposal") shall be referred to the City Engineer who shall make a preliminary determination by reference to the maps and materials maintained in the City's Engineer's office if any of the unsafe physical conditions described in Section 11-2, Kanab City Code, appear to exist in relation to the real property which is included in the proposal.

Section 11-8 Requirement to Submit Letter Report or Geologic Report

1. Except as otherwise provided in Subsection (3), if the City Engineer determines in the manner described in Section 11-6, Kanab City Code, that no unsafe physical condition described in Section 11-2, Kanab City Code, appears to exist in relation to the subject property, the proposal with respect to which the subject property is associated may proceed, as proposed, subject to the other requirements of these Ordinances.

2. If the City Engineer determines in the manner described in Section 11-6, Kanab City Code, that an unsafe physical condition

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described in Section 11-2, Kanab City Code, appears to exist in relation to the subject property, the developer shall submit a geologic report, prepared by a qualified engineering geologist and/or a soils report prepared by a qualified geotechnical engineer and otherwise comply with the remainder of this Chapter.

3. With respect to any proposal not requiring a geologic report, the City Engineer may require the developer to submit a letter report to resolve issues with respect to the condition of the subject property. A letter report may be required even if the maps and materials maintained in the office of the City Engineer do not show any of the unsafe conditions described in Section 11-2, Kanab City Code. The City Engineer may withhold the determination described in Section 11-6, Kanab City Code, until the letter report has been received, and based on information in the letter report, the City Engineer may, for good cause, require the submission of a geologic report.

Section 11-9 Letter Report - Contents

1. A letter report is a simplified geologic report used in relation to areas of relatively stable soil and rock. It shall contain not less than the following:

- a. An analytical geologic description of the subject property in relation to the development which is proposed thereon, and in relation to adjoining property;
- b. A description of any requirements or restrictions which should be imposed on the proposal to avoid violation of the provisions of Section 11-2, Kanab City Code;
- c. A geologic sketch map and/or a geologic structure section diagram, if relationships are complex and difficult to describe in writing; and
- d. The original signature and the registration number of the responsible engineering geologist or geotechnical engineer, and a statement of the methods of study and approximate amount of field time spent by said geologist or engineer in the preparation of the subject letter report.
- e. The letter report shall include other information as the City Engineer shall reasonably require.

Section 11-10 Geologic Report.

1. A geologic report shall include maps and a report containing not less than the following information:

- a. The maps shall include:
 - i. The site location and regional setting of the subject property.

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ii. A site specific geologic map which illustrates exposure to geological and natural hazards identified in Section 11-2, Kanab City Code, and the geotechnical limitations identified in Section 11-2, Kanab City Code. The map shall illustrate the proposed site modifications relative to geological and natural hazards and/or geotechnical limitations that may impact the site. Any corrective site modification actions necessary to mitigate or avoid hazards or limitations shall be clearly identified on the map.

iii. Maps shall use a scale of one (1) inch equaling one hundred (100) feet, with contour lines at five (5) foot intervals. Existing contours shall be shown by dashed lines and proposed contours shall be shown as solid lines. Boring logs, cross-sections, test trench logs, soil sample descriptions, and test results shall be included.

iv. The City Engineer may require additional maps or additional detail on existing maps as reasonably necessary to evaluate actual or potential geologic hazards.

b. The report shall include:

i. A description of the proposed grading, filling, excavation, or structure;

ii. An analysis of the effects of the proposed grading, filling, excavation, or erection of a structure in relation to the geologic conditions shown in the geologic maps;

iii. With regard to a structure, an analysis of the manner in which the same, as constructed, will be made reasonably safe for human habitation;

iv. Any corrective or remedial action necessary to avoid a violation of Section 11-2, shall be described and analyzed in detail;

v. A list, including title, author and date, of all prior studies or reports which are relied upon to make this report; and

vi. The City Engineer may require additional information or analyses which are reasonably necessary to evaluate actual or potential geologic hazards. This includes submittal of geologic reports to the State Geologist for review and comment.

2. If the geologic report (maps and report) relates to land having

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a slope that exceeds ten percent (10%), the development proposal described in the geologic report shall conform to the provisions of Section 11-17, Kanab City Code.

3. In the case of a proposal to grade, fill, or excavate, which is not directly or indirectly related to a proposal to erect a structure for human habitation, the City Engineer may waive compliance with any requirement of this Section not relevant to the proposed grading, filling, or excavating.

Section 11-11 Engineer/Geologist Qualifications and Certificate

1. A letter report (described in Section 11-9, Kanab City Code) or a geologic report (described in Section 11-10, Kanab City Code) shall be approved and signed by one (1) of the following, whose primary area of expertise is required to address the particular issue:

a. a geotechnical engineer who shall be a registered professional engineer in the State of Utah, qualified by training and experience in the application of the principles of soil mechanics to foundation investigation, slope stability, and site development; or

b. an engineering geologist who shall be a graduate in geology or engineering geology from an accredited university with at least five (5) years of professional geologic experience of which at least three (3) full years shall be in the field of engineering geology.

2. A letter report or a geologic report shall contain the following certificate:

CERTIFICATE

I hereby certify that I am a geotechnical engineer or an engineering geologist, as those terms are defined in Section 11-11, of the Ordinances of Kanab City. I have examined the letter report/geologic report to which this certificate is attached and the information and conclusions contained therein are, without any reasonable reservation not stated therein, accurate and complete. All procedures and tests used in said letter report/geologic report meet minimum applicable professional standards.

Signature

3. In addition to any applicable private civil remedies, it shall be unlawful to knowingly make a false, untrue, or incomplete statement in a letter report or a geologic report or to sign the certificate described above knowing the same to be materially false or not true.

4. In general, it shall be the responsibility of a qualified engineering geologist to perform fault studies and landslide investigations, while it shall be the responsibility of a qualified

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geotechnical engineer to prepare soils and foundation studies, particularly addressing such issues as expansive and collapsible soils, liquefaction evaluations and engineering aspects of landslide studies.

Section 11-12 Post Construction Inspection and Certification

For any real property with respect to which development has proceeded on the basis of a letter report or a geologic report which has been acknowledged by the City Engineer, no final inspection shall be completed or certificate of occupancy issued or performance bond released until the engineer or geologist who signed and approved that letter report or geologic report shall further certify that the completed improvements and structures conform to the descriptions and requirements contained in said letter or report. Provided, however, that improvements and structures may, with the consent of the City Engineer, deviate from the descriptions and requirements contained in the letter report or geologic report because of conditions which are discovered after acknowledgment by the City Engineer of the letter report or geologic report.

Section 11-13 Appeal from Decision of City Engineer

Any person dissatisfied with a decision of the City Engineer made under this Chapter, may appeal the same within thirty (30) days thereof to the Appeal Office created by the International Building Code, which Board is by this Chapter authorized to hear appeals from decisions of the City Engineer, which Board shall affirm or reverse, either in whole or in part. Any person dissatisfied with a decision of the Board of Appeals may appeal that decision within thirty (30) days thereof to any court of competent jurisdiction for an administrative and not a de novo review.

Section 11-14 Scope of Application

No subdivision or other development plat or plan with a slope between ten (10) and forty (40) percent shall be approved without compliance with the provisions of this Chapter. Every proposal to grade, fill, or excavate land, and every proposal to erect a structure for human habitation, garage or accessory building shall be subject to this Chapter, including proposals related to land in subdivisions.

Section 11-15 Restrictive Covenant Required.

1. If a letter report or a geologic report has been submitted to the City Engineer, no subdivision or other development plat or plan shall be approved and no building permit shall be issued for construction of a structure until the owner(s) of the subject real property have signed and delivered to Kanab City a restrictive covenant in a form suitable for recording containing not less than the following:

- a. A complete description of the geologic condition of the subject real property, including references to relevant reports

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and studies;

b. A description of the grading, filling, or excavating or erection of a structure for human habitation, garage or accessory building approved in the letter report or geologic report which has been acknowledged by the City Engineer, together with the requirements and restrictions imposed thereon;

c. A covenant and agreement enforceable by Kanab City, adjoining landowners, and any subsequent owner of the subject real property that only the grading, filling, or excavating or erection of a structure in the acknowledged letter report or geologic report will be constructed or maintained without further compliance with this Chapter, as it may be amended from time to time.

Section 11-16 Civil and Criminal Fraud.

It shall be unlawful for any person, including the seller or the seller's representative, directly or indirectly in connection with the sale or offering for sale of real property located in Kanab City, to make any untrue statement of a material fact related to the geologic condition of the subject property. This Section shall be construed to create private and public civil causes of action in addition to creating criminal liability.

Section 11-17 Hillside Development Standards.

1. Grading.

a. No grading, filling, or excavation of any kind shall be accomplished without first having obtained a grading permit from the City Engineer based on the provisions of this subsection (1).

b. Any land or parcel having a slope of greater than ten (10) percent shall be deemed to be land having a "steep slope" within the meaning of this Chapter. No person shall be permitted to grade, excavate, fill, or to erect any structure on such land that exceeds a slope greater than forty (40) percent. Any person proposing to grade, excavate, fill or to erect any structure or access on any slope or hillside with a slope between ten (10) and forty (40) percent shall be required to submit a geologic report which meets the standards and requirements of this Chapter. A geologic report may not be required if a geologic report relating to the subject property has, at an earlier date, been accepted and approved by the City Engineer. Approval shall only be given through a conditional Use Permit by the Kanab City Planning Commission for any development that exceeds a ten (10)

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percent slope. Development between thirty (30) and forty (40) percent shall not exceed one (1) unit per two (2) acres. A continuous slope surrounding Kanab City is considered a Hillside and shall not be graded or developed, in any way above a contour that exceeds a forty (40) percent slope. Foothill areas below the forty (40) percent contour line contain a variety of slopes and development in those areas shall be approved through a conditional use permit as stated above.

c. All preliminary street and site grading shall be completed prior to the installation of utilities.

d. Fills in areas intended as structural foundations, including roadways, shall be compacted to at least ninety-five (95) percent of AASHTO (American Association of State Highway Transportation Officials) T180 density. All other fills shall be compacted to at least ninety (90) percent of AASHTO T180 density. Test reports verifying compliance with this provision shall be submitted to the City Engineer by the developer, at the developer's expense.

e. Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside the hillside area of Kanab City for access purposes.

f. Cut slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured as necessary to blend with existing topography to the maximum extent possible. The City will not accept the dedication and maintenance of cut and fill slopes except those within the required street right-of-way. Where a cut or fill slope occurs between two (2) lots, the slope shall normally be made a part of the downhill lot.

g. Grading, cuts and fill to obtain access to developable property above a ten (10) percent slope shall be approved through a conditional use permit by Kanab City Planning Commission.

h. Sections of the International Building Code regulating excavation and grading shall be complied with, except that decisions described therein to be made by the "building official" may also be made by the City Engineer.

2. Site elements shall include:

- a. Retaining walls that blend with natural topography.
- b. Planting near retaining walls.
- c. Minimum lighting needed for pedestrian safety.

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- d. Building should compliment character of hillside.
 - e. Large areas of formal landscaping are prohibited.
 - f. Grading should be minimized in areas where the slope is greater than thirty (30) percent.
 - g. Drainage channels should receive a naturalizing treatment including native rock and landscaping.
 - h. Use of natural building materials to blend in with the surroundings.
 - i. Smaller roof components so structure appears less intrusive.
 - j. The maximum height of buildings shall not exceed the height allowed in the zoning/overlay district.
3. Drainage.
- a. Required storm water runoff collection facilities shall be designed so as to retain storm water runoff on development sites for a sufficient length of time so as to prevent flooding and erosion during storm water runoff flow periods.
 - b. Required storm water runoff collection facilities shall be so designed as to divert surface water away from cut faces or sloping surfaces of a fill. French drains are not acceptable.
 - c. Curb, gutter, and pavement designs shall be such that water on roadways is prevented from flowing off the roadways.
 - d. Natural drainage shall be rip rapped or otherwise stabilized to the satisfaction of the City Engineer below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.
 - e. Waste material from construction, including soil and other solid materials, shall not be deposited within a natural or manmade drainage course nor within irrigation channels.
 - f. Sediment catchment ponds shall be constructed downstream from each development, unless sediment retention facilities are otherwise provided.
4. Vegetation and Re-vegetation.
- a. Every effort shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping, e.g., cut and fill slopes.
 - b. Areas not contained within lot boundaries shall be protected with adapted, fire-resistant species of perennial vegetation cover after all construction is completed. A list of acceptable species is available from the City.

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- c. New planting shall be protected.
 - d. All disturbed soil surfaces shall be stabilized before final acceptance of the development by the City.
 - e. The developer shall be fully responsible for any destruction of native vegetation which is required to be retained in all areas under the ownership and control of the developer. The developer shall carry the responsibility for such areas both for the developer's own employees and for all subcontractors from the first day of construction until final acceptance of the development by the City. The developer shall be responsible for replacing such destroyed vegetation.
 - f. Prior to the termination of the bonding period, any dead plant materials required to be installed by the Developer shall be replaced and a new bond issued to assure establishment of the replaced materials.
- 5. Fire Protection.
 - a. Lot size and potential placement of buildings thereon shall be such that adequate clearance of hazardous, flammable vegetative cover may be accomplished.
 - b. All easements for firebreaks for safety of built-up areas shall encompass access for firefighting personnel and equipment and such easements shall be dedicated for this specific purpose by being recorded.
 - c. The inability to provide fire line water pressure consistent with the standards set by the Insurance Service Organization shall be justification for denial of a development request.
- 6. Streets.
 - a. All streets within a hillside area shall be designed to meet the standards required for streets in all other areas of the City except that sidewalks of not less than six (6) feet in width may be required on one (1) side of streets within a hillside area.

Section 11-18 High Water Table, Wetland Area and Natural Drainage Development Standards.

- 1. Development in high water table and wetland areas shall be subject to the following standards:
 - a. Wetlands and natural drainages shall not be included as part of any buildable development unless allowed to be mitigated pursuant to applicable law. Lots within the RA (Residential Agriculture) or (Agricultural) zones, may include

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wetlands as part of the lot provided there is sufficient buildable area to accommodate the proposed use.

b. Wetlands may not be included in area requirements for lots or for calculation of density.

c. Where determined by the Planning Commission or designee, wetland areas may be required to be fenced if found to be detrimental to public health, safety or welfare.

d. Prior to the acceptance by the City of a petition for rezoning of property in the designated area, or before the submission of an application for preliminary development plan in the designated area, it must be demonstrated to the satisfaction of the City Engineer that the conditions and requirements contained herein can be met. Such petition, submission, or application shall be made through the City. A pre-development conference with the Development Committee and developer shall be required to review any proposed plans.

e. Prior to acceptance by the City of an application for preliminary development plan in the specified area, it must be demonstrated to the satisfaction of the City that all of the conditions specified in this Chapter have been fully met and accomplished.

f. Surface or subsurface drainage from any development within the subject area shall be transported to either Kanab Creek, Jackson Reservoir and shall not be deposited, collected, or stored upon the property being developed or upon other properties within the subject area.

g. Drainage water from the proposed new development will not be placed upon or pass through other properties, except:

i. Where a preexisting drainage system of adequate capacity is legally available for use; or

ii. Where a permanent drainage easement of a size sufficient to carry projected flows has been obtained and a statement from the owners of both the host and guest properties recorded on proper deeds in the Office of the County Recorder specifying the following:

(a) That the City will be held harmless from all damages or injury resulting from water pollution and flooding from drainage crossing said property.

(b) That the property owner will allow the owner of the easement to enter onto said

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property to maintain the drainage facility on said easement.

(c) That the drainage channel can be placed in a pipe or culvert at such time as deemed appropriate by the owner of the easement.

h. Drainage from the proposed new development will not be placed in an irrigation ditch or irrigation canal, originally constructed for irrigation purposes, except where permission, in written and recorded instruments (i.e., easements) running with the land, has been granted by the subject irrigation company and/or all water users below the proposed development on the specific ditch or canal specifying the following:

i. That the City will be held harmless from all damage or injury resulting from flooding, water pollution, or high ground water from drainage in the ditch or canal.

ii. That the irrigation ditch or canal can be placed in a pipe or culvert at a time deemed necessary by the owner of the easement.

iii. That the owner(s) of property which is the subject of a development plan may be required to provide, and record with the County Recorder, a statement holding the City harmless from all damage within the project resulting from flooding or high water table.

iv. That a disclosure statement may be required to be placed upon all subdivision and development plats in the subject area, stating that the subdivision or development lots are in an area potentially subject to flooding from high water table.

v. That drainage easements be granted to the City within the proposed development, as determined by the City Engineer, and drainage facilities be installed as part of the development at developer's expense.

i. No building shall be allowed to be constructed in a high water table area of the City where the building proposed to be built includes a basement, (basement equals usable floor area below sidewalk level) except according to the following standards:

i. Prior to the issuance of the building permit, the owner(s) shall produce a statement which has been

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recorded on proper deeds in the Office of the County Recorder stating that the City will be held harmless from all damages or injury resulting from flooding in a high water table area.

ii. Prior to the issuance of any building permit with a basement, the developer therefore shall submit to the Building Inspector a certificate from a registered professional engineer indicating the method or design to flood proof the basement except where prohibited by subdivision or development plat conditions.

j. A comprehensive drainage and grading plan shall be submitted by the developer of any property within a high water table area and shall be approved by the City Engineer before preliminary development approval or approval for any residential, commercial or industrial development or building on a single lot or lots. In the case of subdivisions, such plan shall be submitted via the Building Inspector; or in the case of building development on a single lot or lots, the plan shall be submitted via the Building Inspector. Such plan shall be subject to the following requirements:

i. Pumps shall not be discharged into the street or into the sanitary sewer system; but shall require outfall into a storm drain or private ditch system, if permitted by the owners thereof. Approval of, and signatures by, all irrigation and canal companies if their ditches or canals cross the development areas, or if surface or subsurface drainage is to outfall into the ditch or canal or if modification to ditch or canal is proposed. Property owners should be aware that few ditch companies allow discharge into their systems.

ii. Quantities of runoff shall be determined for the complete development area by the rational or other standard engineering method of run off. Procedures for the rational method of computation are outlined in Kanab Ordinances or Policy.

iii. At all outfall points from the development, quantities of run off shall comply with City Ordinances.

iv. The capacity of any irrigation ditch, storm drain, or other channel shall be determined from the inlet point to the outfall point of said channel if it is to be used for runoff. If there is an insufficient capacity to handle added flows, it will not be used.

v. A topographic map shall be prepared to indicate sufficient slopes in all areas to take surface drainage

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water into the designated street or storm drain. Water will not be allowed to pond any place other than a designated detention basin.

vi. A plan of all proposed curbs, gutters, and cross-gutters will need to be submitted. Such plan shall indicate on each curb the proposed grade, directions of flow, and quantities of flow.

vii. No french drains or sumps shall be allowed in the developments as part of the drainage plans on public streets. Discharges from pumps shall not be allowed to pond on property nor shall sumps be used for the disposal of water.

viii. No building permit shall be issued in any development in the described area until the required subsurface and storm drainage system has been constructed and is in operable condition unless a hold harmless agreement is entered into by the developer.

ix. A soil test provided by a licensed soil engineer shall accompany the drainage and grading plan for all areas in which underground private and public utilities will be installed. The engineer's statement must indicate what remedial action is anticipated to be taken to stabilize utility lines to assure that they will not shift, buckle, or lose alignment.

x. The said engineering plan shall include a cross-section of all proposed utility trenches showing configuration and type of materials to be used in backfill and as a "bed" for utility lines the same to be approved by the City Engineer.

xi. All water mains shall be poly wrapped in the high water table area.

Section 11-19 Exceptions to the Ordinance.

This Ordinance shall not apply to any lot or lots forming a part of a subdivision created or recorded prior to the effective date of this Ordinance.